IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

Crl.MC.No. 3609 of 2007()

SC.216/2004 of ADDL. SESSIONS COURT-II, MAVELIKKARA

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PETITIONER: 1ST ACCUSED

CHELLAPPAN, S/O. RAGHAVAN,
KOTTILAPPATTU HOUSE, WARD NO.IV, KADASSANADU MURI,
PALAMMEL VILLAGE.

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)
SRI.S.PRASANTH

RESPONDENTS: STATE

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3609 of 2007

Dated this the 4th day of December 2007

O R D E R

This petition is filed by the first accused in the Sessions trial scheduled to commence on 06/12/2007 before the 2nd Additional Sessions Court, Mavelikkara. The accused face indictment for offence punishable under Section 302 read with 34 I.P.C. According to the petitioner, his counsel had applied even when the matter was listed for trial that the counsel will not be able to appear as another Sessions trial has already listed before the Sessions Judge at Alappuzha where the petitioner's counsel is appointed as the Special Prosecutor. The request was not allowed and the case was posted for trial from 6/12/2007 to 12/12/2007, it is submitted. The report of the learned Sessions Judge however shows that no such request was made.

2. Be that as it may, the case stands posted for trial from 6/12/2007 to 12/12/2007. Altogether there are sixteen witnesses to be examined. The petitioner's counsel is unable to appear as the trial in which he is the Special Prosecutor is going on before the Sessions Court at Alappuzha. In these circumstances, the petitioner has rushed to this court for issue of appropriate directions. The petitioner makes a further grievance that an application filed by him on 26/11/2007 for seeking adjournment

has not been disposed of by the learned Sessions Judge.

3. It is now reported that the said petition has been considered and dismissed on 3/12/2007 without notice to the learned counsel for the petitioner.

4. Finally, the learned counsel for the petitioner only prays that appropriate directions may be issued to ensure that no failure of justice takes place and the petitioner's counsel is given time to cross-examine the witnesses who are scheduled to be examined from 6/12/2007.

5. It is for the learned counsel for the petitioner to make appropriate arrangements regarding the work. If it be impossible for him to appear on 6/12/2007 and on the following dates for trial, he can certainly make an application for adjournment of cross-examination of the vital witnesses. The counsel will certainly have to make necessary arrangements to examine the non vital witnesses. The learned Sessions Judge must consider the prayer for accommodation of the learned counsel for the petitioner with comparison and pass appropriate orders.

6. This Criminal Miscellaneous Case is allowed in part to the above extent.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007